

STATE OF INDIANA)
COUNTY OF HAMILTON)

SS:

IN THE HAMILTON SUPERIOR COURT

CAUSE NO.

29D01-0008 CP 485

STATE OF INDIANA,

Plaintiff,

v.

BEVERLY BURCH,
CECIL MCCORD, and
THE DRAPERY SHOP, INC.,
a foreign corporation,

Defendants.

SHEARER & SHEARER, INC.,
D/B/A ROYAL AUCTION
SERVICES,

Garnishee Defendant.)

MOTION FOR TEMPORARY RESTRAINING ORDER

The State of Indiana, by Attorney General Karen M. Freeman-Wilson and Deputy Attorney General Roy P. Coffey, respectfully moves the Court pursuant to Rule 65 of the Indiana Rules of Trial Procedure and Indiana Code §24-5-0.5-4(c) to issue a Temporary Restraining Order restraining Garnishee Defendant, Shearer & Shearer, Inc., d/b/a Royal Auction Service, from transferring, dispersing, releasing, or otherwise allowing the withdrawal of funds held on behalf of Defendants, pending hearing on the Plaintiff's Motion for Prejudgment Attachment currently set for _____, and in support of its motion states:

1. On August ___, 2000, Plaintiff filed its Complaint in this action, alleging that Defendants engaged in deceptive acts by knowingly and intentionally misrepresenting they would deliver and/or install draperies, blinds and/or other window treatments or coverings, when they

knew they would not and failing to comply with Indiana's Home Improvement Contracts Act in the preparation and execution of home improvements contracts in violation of Indiana's Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1 *et seq.*, and failing to obtain a certificate of authority to do business in Indiana as required by the Violations of Indiana Business Corporations Act. The allegations of Plaintiff's Complaint are incorporated herein and made a part of this motion by reference.

2. On August ___, 2000, Plaintiff filed a Motion for Prejudgment Attachment, requesting that the Court order prejudgment attachment of funds in the name of one or all of Defendants held by Shearer & Shearer, Inc., d/b/a Royal Auction Services. The Court set Plaintiff's Motion for Prejudgment Attachment for hearing on _____.

3. As shown by the affidavit of Ernie Shearer attached to Plaintiff's Motion for Prejudgment Attachment, incorporated into this motion by reference, Plaintiff has shown Defendants intend to remove all property subject to execution from the State of Indiana.

4. If Garnishee Defendant is not restrained from transferring, dispersing, releasing, or otherwise allowing the withdrawal of all the aforementioned funds, Plaintiff will be irreparably harmed due to the likelihood that such funds would immediately be removed from the State of Indiana and the jurisdiction of the Court.

5. A temporary restraining order is necessary to preserve the status quo until the issues raised by Plaintiff's Motion for Prejudgment Attachment can be heard and considered at the _____, hearing.

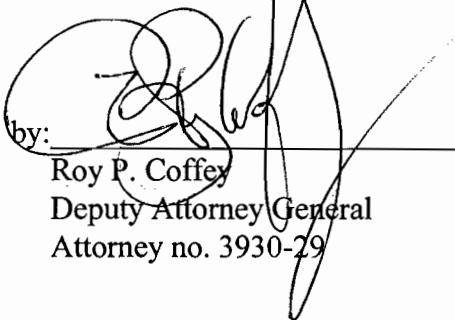
6. There is a substantial likelihood that Plaintiff will prevail on its Complaint in this action, and Plaintiff does not have an adequate remedy at law to protect the interests of Indiana consumers regarding the matters raised in this motion.

7. Plaintiff is a governmental organization and is not required to offer security pursuant to Rule 65(C) of the Indiana Rules of Procedure.

WHEREFORE, Plaintiff requests the Court issue an order restraining Garnishee Defendant Shearer & Shearer, Inc., d/b/a Royal Auction Services transferring, dispersing, releasing, or otherwise allowing the withdrawal of all funds from Defendants' accounts held by Shearer & Shearer, Inc., d/b/a Royal Auction Services, pending hearing on the Plaintiff's Motion for Prejudgment Attachment currently set _____, and for all other just and proper relief.

Respectfully submitted,

KAREN M. FREEMAN-WILSON
Attorney General of Indiana
Attorney No. 8603-45-A

by: 
Roy P. Coffey
Deputy Attorney General
Attorney no. 3930-29

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above Motion for Temporary Restraining Order was mailed by United States mail, first class postage prepaid, to:

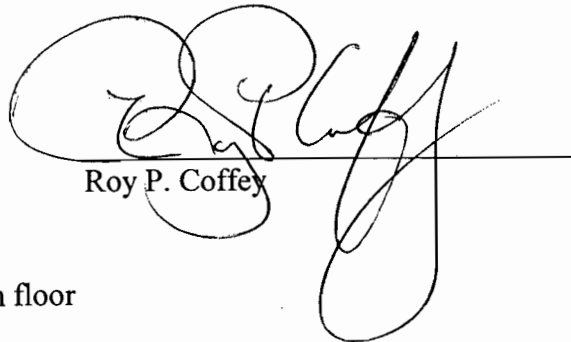
Beverly Burch
15218 Dan Patch Court
Carmel, IN 46032

The Drapery Shop, Inc.
C/O James J. Reagen
2908 Cherry Lane
Northbrook, IL 60062

Cecil McCord
9644 Greentree Drive
Carmel, IN 46032

Shearer & Shearer, Inc.
Royal Auction Services
C/O Ernie Shearer
3422 Shadeland Avenue
Indianapolis, IN 46226

this 14th day of August, 2000.



Roy P. Coffey

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